

DECISION MEMORANDUM

TO: COMMISSIONER KJELLANDER
COMMISSIONER REDFORD
COMMISSIONER SMITH
COMMISSION SECRETARY
COMMISSION STAFF

FROM: KARL T. KLEIN
DEPUTY ATTORNEY GENERAL

DATE: JUNE 16, 2011

SUBJECT: IN THE MATTER OF THE COMMISSION'S INVESTIGATION OF
ISLAND PARK WATER COMPANY, INC.'S BILLING PRACTICES,
CASE NO. ISL-W-11-01

THE INVESTIGATION

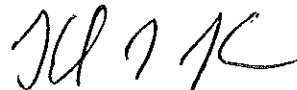
Island Park Water Company, Inc. ("Company") is located in eastern Idaho near West Yellowstone, where it provides water services to approximately 334 customers. In 2010 and 2011, Company customers complained to the Commission that the Company is charging customers a different annual rate than the rate specified in the Company's tariff schedule. More specifically, the Company issued annual water bills charging customers on a "per lot basis" instead of a "per customer" or per connection basis. Commission Staff subsequently investigated the complaints and obtained substantiating information, which is further described in the attached proposed Order.

STAFF RECOMMENDATION

Staff recommends that the Commission issue the attached proposed Order.

COMMISSION DECISION

Does the Commission wish to issue the attached proposed Order?



Karl Klein
Deputy Attorney General

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE COMMISSION'S)	
INVESTIGATION OF ISLAND PARK)	CASE NO. ISL-W-11-01
WATER COMPANY, INC.'S BILLING)	
PRACTICES)	ORDER NO. DRAFT
)	

Island Park Water Company, Inc. ("Company") is located in eastern Idaho near West Yellowstone, where it provides water services to approximately 334 customers. In 2010 and 2011, Company customers complained to the Commission that the Company is charging customers a different annual rate than the rate specified in the Company's tariff schedule. More specifically, the Company issued annual water bills charging customers on a "per lot basis" instead of a "per customer" or per connection basis. Commission Staff subsequently investigated the complaints and obtained substantiating information.

Based on the complaints and Staff's investigation, the Commission on its own motion issues this emergency Order directing the Company to: (1) cease all billing practices that conflict with the tariff; (2) refrain from terminating service to customers that did not pay their annual bills that conflict with the tariff; (3) send corrected invoices to all customers who were billed incorrectly and simultaneously provide copies to the Commission; (4) repay customers for any amounts collected based on a rate exceeding the rate allowed by the tariff; (5) send a copy of its current customer list to the Commission; (6) file its annual report; and (7) provide Staff with a specific date and time that the Commission's auditors may visit the Company.

BACKGROUND

In 2008, the Company asked the Commission to approve an increase to its annual service rate. On November 5, 2008, the Commission issued Order No. 30668 in Case No. ISL-W-08-01 authorizing the Company to increase its annual rate to "\$280 per year per customer." Order No. 30668 at 6-7, 14. The Order also directed the Company to file a tariff schedule specifying the new rate. *Id.* at 15.

The Company subsequently filed its tariff schedule with the Commission. The tariff schedule establishes the Company's annual rate for "[a]ll customers" at "\$280 per year." The tariff became effective on November 5, 2008. Per the Public Utilities Law, the Company may only bill its customers at the rate specified in the Company's tariff schedule. *See Idaho Code* §

61-313 (“Except in this act as otherwise provided, no public utility shall charge, demand, collect or receive a greater or less or different compensation from any product or commodity . . . or service . . . than the rates . . . as specified in its schedules on file and in effect”).

When Commission Staff investigated the customer’s complaints, Staff obtained evidence that the Company is not billing according to the tariff schedule. For example:

- The Company sent Staff a sample bill identifying the “2011 Yearly Water Tariff” as being “\$280/lot,” rather than \$280 per customer.
- Company customers sent Staff copies of actual bills from the Company in which the Company had billed customers more than the approved, \$280 per customer rate . For instance, the Company billed customer Leslie Folsom for \$840, Paul and Carol Smith for \$840, Kevin and Tammie Merrill for \$560, and John and Pam Stanford received two different bills for \$1,237.97. These customers apparently own multiple lots.
- Company customers also sent Staff a copy of a Company newsletter reporting that the “2011 Yearly Water Tariff is \$280 per individual lot” and that “[a] yearly tariff rate (*\$280 per lot) was established by the IPUC and is based upon availability of water to each lot.” The newsletter further states that “[t]he \$280 tariff is for a single residential usage . . . [which] also prohibits multiple RV’s parked on any lot having access to water, without paying for usage.”

JURISDICTIONAL STATEMENT

The Commission has authority over the Company pursuant to *Idaho Code* §§ 61-125 and 61-129. The Commission has authority to investigate the billing practices of the utility pursuant to *Idaho Code* §§ 61-503, 61-313 and 61-612. Based upon the customer’s complaints and the information described above, the Commission finds substantial evidence exists warranting that immediate action be taken to require the Company to bill as specified in the tariff. Additionally, the Commission directs the Company to provide Staff with information needed to ensure compliance with Order No. 30668.

ORDER

IT IS HEREBY ORDERED that the Company immediately cease all billing practices that conflict with the tariff, including without limitation any attempts to collect amounts not allowed by the tariff;

IT IS FURTHER ORDERED that the Company refrain from terminating service to customers that did not pay Company bills that conflicted with the tariff;

IT IS FURTHER ORDERED that the Company send new, corrected invoices to all customers who received incorrect bills. The Company must send the corrected invoices within 30 days of the date of this Order and simultaneously provide copies of the corrected invoices to the Commission;

IT IS FURTHER ORDERED that the Company, within 30 days of the date of this Order, repay customers for any amounts collected based on an incorrect rate exceeding the \$280 per customer rate allowed by the tariff. *Idaho Code* § 61641;

IT IS FURTHER ORDERED that the Company, within 14 days of the date of this Order:

- a. Provide Commission Staff with a list of the Company's customers;
- b. Provide Commission Staff with a specific date and time within the next 30 days when Company personnel will be available at the Company's offices, with appropriate documentation, to meet with the Commission's auditors; and
- c. File its annual report with the Commission. *Idaho Code* §§ 61-401, 61-405.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this
day of June 2011.

PAUL KJELLANDER, PRESIDENT

MACK A. REDFORD, COMMISSIONER

MARSHA H. SMITH, COMMISSIONER

ATTEST:

Jean D. Jewell
Commission Secretary

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